



APPLICATION
SDCL 43-44-3
EMBLEM REGISTRATION
STATE OF SOUTH DAKOTA
FILING FEE: \$50.00

Please make check payable to Secretary of State
ATTACH two specimens or facsimiles of the Emblem.

Return to:
SECRETARY OF STATE
State Capitol Building
Pierre, SD 57501-5077
(605) 773-3539

1. Applicant: _____
Address: _____ City: _____
County: _____ State: _____ Zip Code: _____
2. If a corporation, where incorporated: _____
3. If a partnership, list name and address of partner(s): _____

4. If an association, etc, list name and address of officer(s):

5. Name of Emblem: _____

6. Description of the Emblem: _____

7. Mode or manner in which the Emblem is used: _____

8. Date the Emblem was first used by Applicant or Predecessor:
 - a. In the United States _____
 - b. In the State of South Dakota _____

The application must be signed, in the presence of a notary public.

State of _____)
) SS
County of _____)

I, _____ , _____
 (Print Name of Applicant) (title)
of _____
 (corporation-partnership-association)

do solemnly swear that the above named applicant is the owner of the Emblem and that no other person has he right to use such Emblem in the State of South Dakota either in the identical form thereof or in such near resemblance thereto as might be calculated to deceive or to be mistaken therefor.

Dated _____

 (Applicant Signature)

 (Title)

Subscribed and sworn to before me this _____ day of _____ month/year

Notarial Seal _____
 (Notary Public)

 My Commission Expires

INSTRUCTIONS:

1. Please type or print clearly in black ink.
2. Two specimens or facsimiles of the Emblem must accompany this form.
3. A single copy of the application should be filed.
4. The application must be signed by the applicant.
5. The signature of the application must be notarized. The signature and seal Notary Public must appear on the form.
6. The \$50.00 filing fee must accompany the form. All applications received without the required fee must be returned to the sender requesting the proper fee be submitted. Please make all checks payable to the Secretary of State.

SOUTH DAKOTA CODIFIED LAWS
CHAPTER 43-44
EMBLEMS OF ASSOCIATIONS

Section

- 43-44-1. Insignia of fraternal, historical, military or labor organizations -- Right of registration, alteration or cancellation.
- 43-44-2. Deceptive emblem -- Registration forbidden.
- 43-44-3. Application for registration of emblem -- Officers authorized to make -- Verification -- Copies of emblem.
- 43-44-4. False or fraudulent representation to procure filing and registration as misdemeanor.
- 43-44-5. Application for registration, alteration, cancellation or transfer of registration of emblem -- Receipt and filing by secretary of state -- Issuance of certificate -- Indexing.
- 43-44-6. Fees of secretary of state for registration, alteration or cancellation of certificate -- Transfer of registration -- Searches, certified copies, and other official acts required under chapter.
- 43-44-7. Registration records -- Indexing by secretary of state -- Contents.
- 43-44-8. Prima facie evidence of right to exclusive use of registered emblem -- Rights of prior owner not affected.
- 43-44-9. Persons benefited by registration of emblem.
- 43-44-10. Unauthorized use or wearing of registered emblem -- Classification of offense.
- 43-44-11. Enjoining unlawful use of emblem of fraternal, historical, military or labor organization -- Right to damages.

43-44-1. Insignia of fraternal, historical, military or labor organizations -- Right of registration, alteration or cancellation.

Any association, lodge, order, fraternal society, beneficial association, or fraternal and beneficial society or association, historical, military, or veterans' organization, labor union, foundation, federation, or any other society, organization, or association, degree, branch, subordinate lodge or auxiliary thereof, whether incorporated or unincorporated, the principles and activities of which are not repugnant to the Constitution and laws of the United States or this state, may register in the office of the secretary of state a facsimile, duplicate, or description of its name, badge, motto, button, decoration, charm, rosette, or other insignia hereinafter referred to as an emblem, and may, by reregistration alter or cancel the same.

43-44-2. Deceptive emblem -- Registration forbidden. No registration shall be granted, nor alteration permitted of any emblem so nearly resembling any other which has been theretofore registered, as to be calculated to deceive or mislead.

43-44-3. Application for registration of emblem -- Officers authorized to make -- Verification -- Copies of emblem.

Application for registration of an emblem shall be made by the chief officer or officers of the association, lodge, order, fraternal society, beneficial association, or fraternal and beneficial society or association, historical, military, or veterans' organization, labor union, foundation, federation, or any other society, organization, or association, degree, branch, subordinate lodge or auxiliary thereof, upon blanks to be provided by the secretary of state. Applications for registration shall be verified and have attached thereto two copies of the emblem for which registration is sought.

43-44-4. False or fraudulent representation to procure filing and registration as misdemeanor. Any person who makes a false or fraudulent representation to procure the filing and registration of any emblem as defined in this chapter is guilty of a Class 2 misdemeanor.

43-44-5. Application for registration, alteration, cancellation or transfer of registration of emblem -- Receipt and filing by secretary of state -- Issuance of certificate -- Indexing. The secretary of state shall receive and file all applications under the provisions of this chapter, and shall issue a certificate of registration to the applicant, if the emblem is entitled to registration under the provisions of this chapter.

Applications for cancellation or alteration of registrations shall likewise be received and filed, and certificates thereof issued.

Assignments or other transfers of registrations shall likewise be received, and filed, and noted on the index of such registrations.

43-44-6. Fees of secretary of state for registration, alteration or cancellation of certificate -- Transfer of registration -- Searches, certified copies, and other official acts required under chapter. The fee of the secretary of state for filing the application

and issuing certificate of registration, alteration, or cancellation shall be five dollars.

The fee for filing any assignment or other transfer of registration shall be one dollar.

The fee for searches, certified copies, and other official acts of the secretary of state, required under the provisions of this chapter, shall be the same as provided by law for similar services except as otherwise specifically provided in this chapter.

43-44-7. Registration records -- Indexing by secretary of state -- Contents. The secretary of state shall keep a properly indexed record of all registrations provided for by this chapter, which record shall also show any altered or canceled registration, and any assignments or transfers thereof.

43-44-8. Prima facie evidence of right to exclusive use of registered emblem -- Rights of prior owner not affected. Registration under the provisions of this chapter shall be prima facie evidence of the right of the registrant to the exclusive use of the emblem registered, but it shall not affect the rights of any prior owner or proprietor of the emblem, who has established rights therein by prior, open, notorious, and exclusive use, and upon which prior use the said registered emblem is an infringement, counterfeit, or imitation, calculated to mislead or deceive.

43-44-9. Persons benefited by registration of emblem. The registration shall be for the benefit of the registrant and his successors, assigns, and persons using the same under his permission or license, express or implied, and according to the laws governing the succession, assignment, and use of personal property generally.

43-44-10. Unauthorized use or wearing of registered emblem -- Classification of offense. It is a petty offense for any person to use any emblem which has been registered under the provisions of this chapter, or one so nearly resembling it as to be calculated to deceive or mislead, unless he is entitled to wear or use it under the constitution, bylaws, rules, or regulations of the lodge, association or organization registering the emblem. Any person who intentionally wears, exhibits, displays or uses, for any purpose, the emblem of an association or organization registered under the provisions of this chapter, unless he is entitled to use and wear the same under the constitution, bylaws, rules or regulations of such association or organization, is guilty of a Class 2 misdemeanor.

43-44-11. Enjoining unlawful use of emblem of fraternal, historical, military or labor organization -- Right to damages. Any person entitled to the use or benefits of any registered emblem may maintain an action in any court of competent jurisdiction to enjoin the unauthorized use of the same, or any infringement, counterfeit, or imitation thereof; and in such action may have judgment for injunction, damages, including profits acquired by the defendant, and order for destruction of all counterfeits or imitations, according to the rights of such person established in such action.